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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <b>4386.77752</b>	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____		Application Number  <b>10/569,552</b>  First Named Inventor  <b>Yoshimasa Hashimoto</b>  Art Unit  <b>1791</b>	Filed  <b>February 27, 2006</b>  Examiner  <b>Maki, Steven D.</b>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s).          Note: No more than five (5) pages may be provided.</p>			
I am the  <input type="checkbox"/> applicant/inventor.  <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/06)  <input checked="" type="checkbox"/> attorney or agent of record. 59,905 Registration number _____  <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<div style="text-align: center;">             Signature  <b>Kevin T. Bastuba</b>            Typed or printed name         </div> <div style="text-align: center;"> <b>(312) 360-0080</b>            Telephone number   <b>August 13, 2009</b>            Date         </div>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Yoshimasa Hashimoto  
Serial No.: 10/569,552  
Conf. No.: 7758  
Filed: February 27, 2006  
For: PNEUMATIC TIRE  
Art Unit: 1791  
Examiner: Maki, Steven D.

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants request a pre-appeal review of the outstanding final rejection of the pending claims in this Application because the examiner has clearly failed to show each of the elements of the claims recited in the present application. Fairness dictates that the rejection be withdrawn and the application allowed without subjecting applicants to the delay and expense of a full appeal.

The examiner commits clear error when he states that Beckmann, Lagnier '965, and Lagnier '002 disclose a sipe including bent portions having an amplitude in a tire radial direction, set larger at a portion closer to the bottom of the sipe than at a portion closer to the tread surface of the tire.

Beckmann shows, in Figs. 3a and 3b, that a lamella has an embossing depth  $p''$ . Accordingly, an incision in a tire created using the lamella of Beckmann will have a constant amplitude  $p''$  in the tire circumferential direction. The lamella of Beckmann further includes generally horizontally-extending bending lines 3'' having constant amplitude in the tire radial direction, separated from one another by a vertical distance  $C$ . Additionally, the lamella includes generally vertically-extending bending line 4'' having constant amplitude in the tire circumferential direction. That is, as acknowledged by the examiner, Beckmann fails to disclose or suggest that a tire includes a sipe where the amplitude of bent portions of the sipe in the tire radial direction is set larger at a portion closer to the bottom of the sipe than in a portion closer to the tread surface of the tire.

Fig. 3C of Lagnier '965 shows a tire incision 710 that has a constant amplitude " $a$ " in the tire circumferential direction (Lagnier '965, col. 5, lns. 31-33). Lagnier '965 also discloses that the pseudo-wavelength  $\lambda_A$ - $\lambda_F$  of the incision increases as a function of the depth  $P$  of the incision. This variation in pseudo-wavelength is caused by reducing the angles  $\theta_A$ - $\theta_E$  as a function of the incision depth  $P$  (See col. 5, lns. 30-35). However, Lagnier '965 is silent regarding any increase in amplitude of bending lines. Lagnier '965 merely states that the incision has a rectilinear trace on a tread surface of a tire (col. 2, lns. 15-16). This rectilinear trace corresponds to bending lines having zero amplitude in a tire radial direction and therefore no increase in amplitude. In contrast, zig-zag bending lines having non-zero amplitudes in the tire radial direction result in a zig-zag trace at the tread surface of a tire. Since Lagnier '965 does not have zig-zag

trace, the reference also does not include bending lines having a non-zero amplitude, or an increase in amplitude of the bending lines based on a depth of the incision.

Lagnier '002, like Lagnier '965, discloses that an incision in a tire has constant amplitude  $\alpha_B$  in the tire circumferential direction and a wavelength  $\lambda_B$  that varies as a function of depth (Lagnier '002 col. 4, Ins. 31-34). However, Lagnier '002 is silent regarding tire radial direction amplitude of bending lines. Accordingly, since Lagnier '002 fails to disclose or suggest that bending lines have a radial direction amplitude, it also fails to disclose or suggest increasing the amplitude of the bending lines based on a depth of the incision.

The Examiner asserts, at page 12, lines 9-16 of the outstanding Office Action, that when the varied angle and pseudo-wavelength of the incision taught in Lagnier '965 is applied to the lamella having a constant amplitude in the tire circumferential direction as described in Beckmann, then the amplitude of bending line 3" in the tire radial direction must increase. However, this statement is traversed and is clear error. As discussed above, none of the cited references, taken alone or in combination, disclose or suggest that the radial direction amplitude of the bending lines increases as a function of depth. The assertion of this feature of the amplitude being present in the references when it is lacking is the clear error.

Further, the Examiner asserts that the zig-zag trace shown in Fig. 3C of Lagnier '965 corresponds to the generally vertical bending line 4" shown in Fig. 3b of Beckmann. As shown in Fig. 3a of Beckmann, the distance between bends in the bending lines 4" is the vertical distance C" separating bending lines 3". Accordingly, the

wavelength of the bending line 4'' is dependent on the vertical distance C'' and the bending angle  $\gamma$ , and not a tire radial direction amplitude of the bending lines 3''. Accordingly, for at least these reasons, the Examiner's assertion that the cited references disclose or suggest that an amplitude of bent portions in the tire radial direct is set larger in a portion near a bottom of a sipe than in a portion near the tread surface of a tire is traversed and clear error. The clear error is the misunderstanding of the parameters that affect the wavelength.

The examiner's assertion that the arguments presented in Amendment B filed on January 28, 2009 are not commensurate in scope with the claims recited in the application is also traversed. As shown in Fig. 6 of the present application, one embodiment of a sipe includes four bent portions 6, having amplitudes A, B, C, and D, respectively. The amplitudes of the bent portions are set such that, for any two or more bent portions, the amplitude of the bent portion nearest to the tread surface will be smaller than the amplitude of the bent portion nearest to the sipe bottom. That is, while four bent portions are shown, only two bent portions are required, as the Examiner correctly points out. However, Applicants' argument remains valid, even when only two of the four bent portions are considered. For this reason, Applicants assert that the arguments presented in Amendment B are commensurate in scope with the recited claims and therefore should be reconsidered.

Finally, the examiner asserts that the claimed invention has not been compared with sipes formed using the lamella disclosed in Beckmann. This is incorrect. First, Example 1 shown in Table 2 of the present application substantially corresponds to

a tire including sipes similar to those disclosed in Beckmann. That is, the lamella disclosed by Beckmann is used to form a sipe having a constant amplitude and constant tilt angle, as is represented in Example 1 of Table 2. Moreover, the tilt angle and amplitude of Example 1 in the present application correspond to ranges for the bending angle  $\gamma$  and embossing depth  $p$  disclosed by Beckmann (See col. 5, lns. 3-11 of Beckman). Second, the Examples 2-8 shown in Table 2 of the present application correspond to claim 3. It is clear from the data shown in Table 2 that on-ice braking performance for Examples 2-8 is generally equivalent or better than on-ice braking performance for Example 1, and that the failure incidence for the Examples corresponding to the present invention is significantly improved.


For at least these reasons, applicants ask that this pre-appeal review request be sustained, and the application allowed. As no sufficient rejections have been established, the pendency of the Application should be ended with the issuance of a Notice of Allowance.

The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment, to Deposit Account No. 07-2069.

Respectfully submitted,

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